THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.14622 OF 2005

Between:

1.S.Venkat Swamy and two others

……Petitioners

&

1. The Principal Secretary to Government of A.P., Secretariat Buildings, Hyderabad and four others

…….Respondents

Dt.21.09.2005

O R D E R:

This writ petition is filed in the nature of writ of Mandamus directing respondent Nos. 2 and 3 to cause enquiries and pass necessary orders for waiver of loans taken by the petitioners from the fourth respondent and consequently direct respondent Nos. 4 & 5 not to take any coercive steps till the orders are passed by respondent Nos. 2 and 3.

The petitioners herein are small farmers and they are cultivating their lands by taking

loans under various schemes from the Primary Agricultural Co-operative Society, with the support of the District Co-operative Central Bank. In the year 1998 the first petitioner took an amount of Rs.1,39,000/-, the second petitioner took Rs.22,500/- and the third petitioner took Rs.38,000/- towards loan. In the year 2000 due to heavy floods to river Godavari, their crops were submerged and their belongings were also washed away. As the matter stood thus, on 16.04.2004 the respondent authorities issued notices to the petitioners demanding them to repay the loan amount. In spite of the representations submitted by the petitioners the respondent authorities are trying to auction their thatched houses. Hence, this writ petition is filed.

The fourth respondent filed counter affidavit stating that as the writ petition is filed challenging the show cause notice issued by the authorities of the Bank under Section 71(1) of the A.P.Co-operative Societies Act, 1964 (for short 'the Act') instead of availing an appellate remedy, the present writ petition itself is not maintainable. It is also stated that as the writ petition is filed without impleading Sanepalli lanka Primary Agricultural Co-operative Society from which they obtained loans, it is liable to be dismissed for non-joinder of necessary parties. It is also further stated in order to mislead the Court, the petitioners have filed the unsigned and undated representations alleged to have been submitted before the Minister for Co-operation. Hence, the same cannot be believed.

On 20.09.2005 when the matter is called, none appeared for the petitioners. Hence, the matter is posted to this day. Even today, none appeared for the petitioners. Heard the learned counsel for the fourth respondent.

This writ petition is filed by the petitioners challenging the show cause notice, dated 16.04.2004 issued by the authorities of the Bank under Section 71 (1) of the Act, wherein it was directed that the petitioners shall appear before the C.S.R./Sale Officer of the Bank on 22.07.2004 and show cause as to why a certificate should not be issued to them under Section 71(1) of the Act, failing which it will be determined

that they have no objection and it will be presumed that they have admitted the said dues to the said Society and necessary certificate will be issued accordingly. Since the writ petition is filed by the petitioners without impleading the said Society, it is devoid of merit and the same is accordingly dismissed. No costs.

After dictating the oral order, the learned counsel for the petitioners brought to the notice of this Court the Certificate issued by the Mandal Revenue Officer, Ayenavali, dated 26.09.2000 showing that the first petitioner lost his livestocks and also his belongings in the floods. He also submitted that in pursuance of the said show cause notice, the petitioners submitted their representations and appropriate decision has to be taken by the respondent authorities.

In view of the facts and circumstances of the case, I think that it would be just and proper to dispose of the writ petition directing the petitioners to file proper explanation to the said show cause notice dated 16.04.2004 issued by the respondent authorities and on receipt of such explanation, the respondent authorities shall consider the same and pass necessary orders in accordance with law.

The writ petition is accordingly disposed of. No order as to costs.

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K.C.BHANU J.,

Dt.21.09.2005

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